

PROCEDURE 1460.01

Issued Date: April 30, 2006

Effective Date: May 31, 2006

- SUBJECT:** Using copyrighted material, digital content, and files.
- APPLICATION:** This procedure applies to all users of State information technology resources including, but not limited to, State employees, student interns, contractors, volunteers, and temporary employees.
- PURPOSE:** The purpose of this procedure is to eliminate unauthorized or inappropriate downloading, distribution, and unlawful use of any copyrighted material by users of State of Michigan information technology resources.
- CONTACT AGENCY:** Department of Information Technology (DIT)
Office of Enterprise Security
- TELEPHONE:** 517/241-4090
- FAX:** 517/241-2013
- SUMMARY:** This procedure requires that all users of State information technology resources comply with their rights and responsibilities under copyright laws and obtain permission for use of copyrighted material where required.
- APPLICABLE FORMS:** None
- PROCEDURE:** Copyright is a form of legal protection provided by the federal law (title 17, U.S. Code) giving the owner of the copyright the exclusive right to reproduce, distribute, and sell the copyrighted work. The law applies to works stored or distributed in any digital media or data file and works transmitted over any media including the Internet. When an original work is placed in a fixed media, such as paper, web page, or disk, it is immediately copyrighted. Material does not have to bear a copyright notice to be protected.
- A. DIT responsibilities:**
1. Provide legally acquired and licensed software to meet the State's business needs.
 2. Maintain records suitable for inventory, review, and audit demonstrating proper license for all software and copyrighted material loaded on systems they administer.
 3. Take steps to block sites that are known to exclusively offer downloads of files in violation of this policy.
 4. Shall audit and periodically review State of Michigan web servers, intranet, Internet, and extranet to identify and remove files and content in violation of this procedure.

B. Responsibilities of all users of State information technology resources:

1. All users shall comply with all provisions of copyright laws.
 - a. It is the obligation of the user to determine if material is copyrighted and whether the intended use of the material falls within the fair use exception of Section 107 of the Copyright Act or requires the permission of the copyright owner.
 - i. Documented permission or license from the copyright owner must be obtained before downloading or using any copyrighted files or material, or if ownership is unclear.
 - ii. *The doctrine of fair use provides limited exceptions on a case-by-case basis for use of copyrighted material without permission, with four factors to be examined. Fair use should not be relied upon without review by the Attorney General of a detailed procedure.*
 - a. *the purpose and nature of the use the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;*
 - b. *the nature of the copyrighted work;*
 - c. *the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and*
 - d. *the effect of the use upon the potential market for or value of the copyrighted work.*
 - b. Users are responsible for determining if content on Internet web sites, including public content and government web sites, have stated copyright protection limiting download and use of material. Users shall comply with any stated restrictions on use.
 - c. Users must maintain documentation to substantiate authorized use of copyrighted material for inventory, review and audit.
 - d. Use of unauthorized software, unlicensed copies, software used in violation of license, personally-owned software, unauthorized bulletin-board, free or shareware software on State information technology resources is strictly prohibited.
 - e. Software, files, documents, graphics, music, sound recordings, or video files infringing on copyright ownership shall not be used, transmitted, or stored on State of Michigan information technology resources, including installed and removable digital media.
 - f. When copyright ownership, license, or grant of use cannot be determined the material shall not be used.

C. State Agencies desiring to implement more stringent practices and procedures for their information technology environments may do so with the written approval of DIT Office of Enterprise Security.

Authority is The Management and Budget Act, Public Act 431 of 1984, as amended, § 203.

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